IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8853 OF 2005

Shri.Shivaji Khanderao Matale .. Petitioner.
(Orig.Plaintiff)

Versus

Nashik Municipal Corporation
Nashik & Ors. .. Respondent.

Ms.P.P.Tendulkar i/b.Mr.M.S.Karnik for the petitioner.
Mr.V.A.Gangal a/w. Mr.Ashok Ghade for respondent No.1.
Mr.V.S.Gokhale, A.G.P. for respondent No.2.
Mr.P.S.Dani for respondent No.7 & 8.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 9th March, 2007.

P.C.

1. The suit, which is filed by the original plaintiff-petitioner is R.C.S.No.805 of 1999, instituted on 30th November, 1999. It is filed

against the present respondents 1 to 5. The respondent Nos.7 and 8 applied for joining them as party defendants to the petitioner's suit, which application was resisted but ultimately granted by the Trial Court.

2. Aggrieved by the order passed on this application, the petitioner-plaintiff has approached this Court invoking this Court's jurisdiction under Article 227 of the Constitution of India.

3. I have perused the application preferred in the Trial Court, the reply thereto and the averments in the plaint.

4. In the peculiar facts of this case, far from the joinder pejudicing the petitioner-plaintiff, it would ultimately assist him and obviate necessity of filing any further

proceedings. In other words, since the larger interest of justice is served, in the peculiar facts of this case, I am not inclined to exercise the discretionary and equitable jurisdiction of this Court under Article 227 of the Constitution of India. Petition is, therefore, dismissed.

5. However, no observations either in the impugned order or in the present order shall preclude parties from raising appropriate contentions on merits nor shall preclude the petitioner-plaintiff from proving his case in accordance with law.

(S.C.Dharmadhikari, J.)